

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DEBORAH KOESTER,

Plaintiff,

v.

MID RIVERS MALL CMBS, LLC,

Defendant.

Case No. 4:23-CV-01306-SPM

MEMORANDUM AND ORDER CONCERNING
SUBJECT MATTER JURISDICTION

This case was removed to this Court from the Eleventh Judicial Circuit of St. Charles County, State of Missouri on October 17, 2023. On December 5, 2023, counsel for both parties appeared for a Rule 16 Scheduling Conference before the undersigned. During the Conference, the Court identified certain deficiencies in the jurisdictional allegations in the original Notice of Removal. Defense counsel agreed to file an Amended Notice of Removal to address the identified deficiencies. On December 19, 2023, pursuant to the discussion held at the Rule 16 Conference, Defendant filed an Amended Notice of Removal (Doc. 18). The Court finds that in the Amended Notice of Removal, Defendant has adequately alleged that the amount in controversy exceeds \$75,000, that Plaintiff is a citizen of Missouri, and that Defendant is a citizen of Delaware, Tennessee, Massachusetts, Georgia, New York, Ohio, Colorado, and Florida. The Court concludes that the Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) and 28 U.S.C. § 1441.

In making this determination, the Court has inferred from the face of the pleadings that trust members of Defendant Mid Rivers Mall CMBS, LLC—specifically, “Trust U/W Moses

Lebovitz fbo Faye L. Peterket” and the “Joseph J. Urbancic Revocable Living Trust U/A dyd 1-21-1992”—are traditional trusts whose citizenship is determined by the citizenship of the trustees, rather than business trusts, whose citizenship requires a determination of the trust’s members or shareholders. *See Americold Realty Tr. v. Conagra Foods, Inc.*, 577 U.S. 378, 383 (2016); *Haas as Tr. of Bira Rabushka Living Tr. v. Rabushka*, No. 4:23-CV-1304 RLW, 2023 WL 6879663, at *2 (E.D. Mo. Oct. 18, 2023); *Senderra Rx Partners, LLC v. Express Scripts, Inc.*, No. 4:21-CV-521 RLW, 2021 WL 3404029, at *4 (E.D. Mo. Aug. 4, 2021). If, as discovery progresses, it is determined that either of these trusts is not a traditional trust, the parties should alert the Court to that fact, because the Court’s subject matter jurisdiction could be impacted.

Accordingly,

IT IS HEREBY ORDERED that if any party determines that “Trust U/W Moses Lebovitz fbo Faye L. Peterket” or “Joseph J. Urbancic Revocable Living Trust U/A dyd 1-21-1992” is a business trust rather than a traditional trust, the party shall promptly alert the Court of that fact so that the Court may assess the impact on the Court’s subject matter jurisdiction.



SHIRLEY PADMORE MENSAH
UNITED STATES MAGISTRATE JUDGE

Dated this 8th day of January, 2024.